



May 24, 1999

Mr. Scott Fawcett
Legal Counsel
Open Records Division
Comptroller of Public Accounts
Austin, Texas 78774-0100

OR99-1443

Dear Mr. Fawcett:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 124942.

The Comptroller of Public Accounts (the "comptroller") received a request for information regarding the Texas Justice Foundation. You claim that a portion of the requested information is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 171.206 of the Tax Code. You have submitted for our review responsive information marked to indicate the portion you contend is excepted from disclosure.¹ We have considered the exception you claim and reviewed the submitted information.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses information protected by other statutes. Section 171.206 of the Tax Code, with exceptions not applicable here, makes confidential all information obtained from a record or other instrument that is required to be filed with the comptroller under chapter 171 of that code.

Tax Code section 171.201, with exceptions not applicable here, requires a corporation on which a franchise tax is imposed to file an "initial report" with the comptroller containing certain financial information, information identifying the officers, directors and designated agents, and "other information required by the comptroller." You have supplied a document, that you identify as "#2" and refer to as "the 1994 return." This document is apparently an

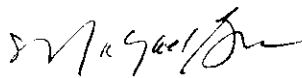
¹We assume that you have released the responsive information for which you do not assert an exception.

“initial report” filed by the Texas Justice Foundation pursuant to Tax Code section 171.201. All of the information supplied by Texas Justice Foundation on this document is made confidential by Tax Code section 171.206 and must be withheld under section 552.101 of the Government Code. You represent that the highlighted information on the document supplied and identified by you as “#4” and referred to as the “screen print” is derived from the information supplied by Texas Justice Foundation on its “1994 return” i.e. its filing under section 171.201. Based on this representation, we conclude that this information is also confidential and may not be released.

Section 171.202 of the Tax Code, with exceptions not applicable here, requires a corporation on which a franchise tax is imposed to file an “annual report.” Subsection (e) of that statute requires a corporation that seeks an extension of the filing date for this report to submit its request by supplying information on a form provided by the comptroller. You have supplied a document, that you identify as “#3” and refer to as “the extension.” This document is apparently a request filed by the Texas Justice Foundation pursuant to Tax Code section 171.202(e). Hence, the information is made confidential by Tax Code section 171.206 and must be withheld under section 552.101 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 124942

encl. Submitted documents

cc: Ms. Debbie Bartholomew
4820 13th Street
Lubbock, Texas 79416
(w/o enclosures)